

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Jamal Al Amiri,

Petitioner,

vs.

Katrina Kane,

Respondent.

No. CV 08-1160-PHX-MHM (JCG)

AMENDED*
REPORT and RECOMMENDATION

On June 23, 2008, Petitioner Jamal Al Amiri filed a *pro se* Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241 alleging that immigration officials were holding him in detention pending his removal to Iraq, but that his removal could not be effected. (Doc. No. 1.) Petitioner sought his immediate release from custody on the grounds that his indefinite detention with no prospect that his removal would be effected in the reasonably foreseeable future was not authorized by law. *See Zadvydas v. Davis*, 533 U.S. 678 (2001) (when there is no reasonable likelihood that a foreign government will accept the alien's return in the reasonably foreseeable future, the immigration laws do not permit the INS to detain the alien indefinitely; rather, the INS has the authority to detain aliens only for a reasonable time beyond the normal 90-day statutory removal period).

*This Report and Recommendation is an amendment of the Report and Recommendation filed on September 24, 2008 (Doc. No. 13.) The previously-filed Report & Recommendation was mistakenly captioned as an Order to Show Cause.

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2 On August 13, 2008, Respondents filed a Suggestion of Mootness (Doc. No. 8)
3 indicating that Petitioner was released from detention under an Order of Supervision on
4 August 7, 2008. Respondents argue the case is now moot.

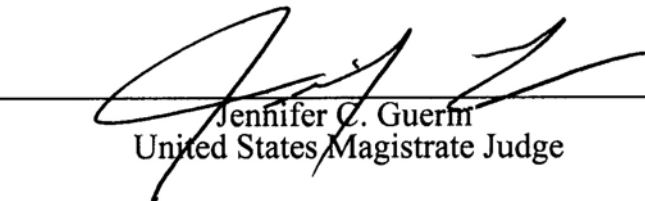
5 On August 20, 2008, this Court gave Petitioner until September 18, 2008, to show
6 good cause why this case should not be dismissed as moot. The court specifically warned
7 Petitioner that the case may be dismissed without further notice if he failed to respond. He
8 did not respond. A review of the docket indicates that the order was returned as
9 undeliverable. (Doc. No. 12.)

10 RECOMMENDATION

11 Based on the foregoing, the Magistrate Judge recommends that the District Court,
12 after its independent review of the record, enter an order DISMISSING the Petition for Writ
13 of Habeas Corpus as MOOT.

14 Pursuant to 28 U.S.C. §636 (b), any party may serve and file written objections within
15 10 days of being served with a copy of this report and recommendation. If objections are not
16 timely filed, they may be deemed waived. If objections are filed, the parties should use the
17 following case number: **08-1160-PHX-MHM.**

18 DATED this 25th day of September, 2008.

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22 Jennifer C. Guerin
23 United States Magistrate Judge
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